



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO  
Hall of Justice and Records  
400 County Center  
Redwood City, California 94063-0965

NEAL TANIGUCHI (650) 261-5016  
COURT EXECUTIVE OFFICER  
CLERK & JURY COMMISSIONER

March 26, 2020

To All Interested Persons,

The Court is making changes to its Local Court Rules. These new changes will become effective on the date indicated in the proposal. The Court invites you to review and provide your comment on these proposals as afforded pursuant to the State of California Rules of Court, Rules 10.613 and 10.815.

You may send your comments to:

[smsccomment@sanmateocourt.org](mailto:smsccomment@sanmateocourt.org)

with a subject line stating "Comments on Proposed Rule Changes". Please state the proposal number, the section and paragraph number on which you are commenting and your comment.

Comments must be received in our office no later than **2:30 P.M., May 13, 2020**.

Sincerely,  
Neal Taniguchi, Court Executive Officer

A handwritten signature in cursive script that reads "Blake Cox".

By: Blake Cox  
Court Rules Committee Staff

**INVITATION FOR PUBLIC REVIEW AND COMMENT**  
**[Proposed Effective Date of July 1, 2020]**

Pursuant to California Government Code § 70631 and California Rules of Court, Rule 10.613 (g) and 10.815(b), the following proposed amendments to the Local Rules are hereby distributed for public comment and notice. The affected items are:

**Proposed Revisions to Local Court Rules**

- July 2020-01      **DIVISION V - FAMILY LAW DEPARTMENT AND FAMILY COURT SERVICES**  
LOCAL FORM AD-10– Stipulation For Court Commissioner To Act As Temporary Judge For All Purposes
- July 2020-02      **DIVISION II - COURT MANAGEMENT – SUPERIOR COURT**  
**CHAPTER 1 Form and Service of Papers**  
2.1.5 Permissive Electronic Filing of Documents;  
2.1.7 Mandatory Electronic Filing of Documents; and  
2.1.8 Documents That Cannot Be Electronically Filed
- July 2020-03      **DIVISION II - COURT MANAGEMENT – SUPERIOR COURT**  
**CHAPTER 5 General Rules**  
2.12 Court Reporter Availability in Civil Actions
- July 2020-04      **DIVISION IX - CRIMINAL DEPARTMENT**  
9. 11 Brief Preliminary Evaluation of the Mental Competency of a Criminal Defendant

**Submitting Comments**

- Comments must be submitted addressed to *Proposed Rules* via email at [smscomment@sanmateocourt.org](mailto:smscomment@sanmateocourt.org).
- Please state the proposal number, the section and paragraph number on which you are commenting and your comment.
- Comments must be received **no later than 2:30 P.M. May 13, 2020.**

**Proposal Number 01 2020 – July**

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| <b>Title</b>                                                                                | <b>LOCAL FORM AD-10– Stipulation For Court Commissioner To Act As Temporary Judge For All Purposes</b>                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Summary</b>                                                                              | Revises Local Form AD-10 to provide a space to write in the Court Commissioner’s name who is to act as Temporary Judge.                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Discussion</b>                                                                           | The legal process committee of our local domestic violence council has requested that the Court consider modifying Local Form AD-10 to add language identifying the Commissioner as to whom the stipulation is being entered. The current form does not provide a space to identify the commissioner who will be presiding.                                                                                                                                                                                                             |
| <b>Proposed Changes</b><br><br>(insert text of new rule or changes here with track changes) | “The Court Commissioner assigned to your case is a judicial officer of the San Mateo County Superior Court and may act as a Temporary Judge if all the parties agree in writing. (California Constitution, Article 6 §§ 21, 22; Code of Civil Procedure § 259(d))<br>Your signature below means you agree that # Court Commissioner _____ shall act as a Temporary Judge for all purposes in this matter until the final determination of the case, including all post-trial matters.”<br><br><i>(Amended, effective July 1, 2020).</i> |

|                                                                                                                                                                                                                                                    |                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number, Address)<br><br>TELEPHONE NO: _____ FAX NO.(Optional): _____<br>MOBILE NO: _____<br>E-MAIL ADDRESS: _____<br>ATTORNEY FOR (Name): _____                                                | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO<br><br><input type="checkbox"/> Southern Division, 400 County Center, Redwood City, CA 94063<br><br><input type="checkbox"/> Northern Division, 1050 Mission Road, South San Francisco, CA 94080 |                    |
| <b>PETITIONER:</b><br><br><b>RESPONDENT:</b>                                                                                                                                                                                                       |                    |
| <b>STIPULATION FOR COURT COMMISSIONER TO ACT<br/>AS TEMPORARY JUDGE FOR ALL PURPOSES</b>                                                                                                                                                           |                    |

The Court Commissioner assigned to your case is a judicial officer of the San Mateo County Superior Court and may act as a Temporary Judge if all the parties agree in writing. (*California Constitution, Article 6 §§ 21, 22; Code of Civil Procedure § 259(d)*)

**Your signature below means you agree that a Court Commissioner \_\_\_\_\_ shall act as a Temporary Judge for all purposes in this matter until the final determination of the case, including all post-trial matters.**

Dated: \_\_\_\_\_

**SIGNATURE**

**PRINTED NAME OF PARTY OR ATTORNEY**

\_\_\_\_\_  
  
\_\_\_\_\_

\_\_\_\_\_  
  
 Self-represented or  Attorney For:  
 Petitioner/Plaintiff  Respondent/Defendant

Self-represented or  Attorney For:  
 Petitioner/Plaintiff  Respondent/Defendant

**Proposal Number 02 2020 – July**

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| <b>Title</b>                                                                                | <b>Rules 2.1.5 Permissive Electronic Filing of Documents; 2.1.7 Mandatory Electronic Filing of Documents; and 2.1.8 Documents That Cannot Be Electronically Filed</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Summary</b>                                                                              | Establishes mandatory electronic filing of documents in all civil actions, and in criminal actions post-Complaint, rather than permissive e-filing. Prohibits electronic filing of criminal Complaints and all documents filed before the Complaint in criminal actions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Discussion</b>                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Proposed Changes</b><br><br>(insert text of new rule or changes here with track changes) | <p>2.1.5 Permissive Electronic Filing of Documents</p> <p>A. <del><i>The Court permits parties to electronically file documents in any civil class action, civil coordinated action, civil action that is provisionally complex under Rule 3.400(e) of the California Rules of Court, or civil action that is deemed complex pursuant to CRC Rule 3.403. The Court permits parties to electronically file documents in any Civil Limited cases and in any Civil Unlimited cases. The Court permits parties to electronically file documents in any action under the jurisdiction of the Small Claims Court, pursuant to Code of Civil Procedure Section 116.110 et seq. The Court permits parties to electronically file documents in any Unlawful Detainer action brought under Code of Civil Procedure Sections 1159 through 1179a. The Court permits parties to electronically file documents in any felony or misdemeanor Criminal action (but not Traffic Court or infraction cases).</i></del> The Court does not presently permit electronic filing in other types of cases. (See Local Rule 2.1.7 for mandatory electronic filing of documents.)</p> <p>(B-D unchanged)</p> <p>(Adopted, effective January 1, 2014) (Amended, effective January 1, 2017)(Amended, effective July 1, 2017) (Amended, effective January 1, 2019)(Amended, effective July 1, 2019) (Amended January 1, 2020).<br/><i>(Amended, effective July 1, 2020).</i></p> <p>Rule 2.1.7 Mandatory Electronic Filing of Documents</p> <p>(a) (1) Except for self-represented litigants, all parties are required to electronically file documents in all actions or proceedings brought under the Family Code, and all actions or proceedings to which the Probate Code applies, pursuant to CRC Rule 7.802.</p> <p style="padding-left: 40px;">(2) <i>Except for self-represented litigants, all parties are required to electronically file documents in all Civil Limited cases and in all Civil Unlimited cases.</i></p> |

**(3) Except for self-represented litigants, all parties are required to electronically file documents in all civil class actions, civil coordinated actions, civil actions provisionally complex under CRC Rule 3.400(c), and civil actions deemed complex pursuant to CRC Rule 3.403.**

**(4) Except for self-represented litigants, all parties are required to electronically file documents in all actions under the jurisdiction of the Small Claims Court, pursuant to Code of Civil Procedure Section 116.110 et seq.**

**(5) Except for self-represented litigants, all parties are required to electronically file documents in all Unlawful Detainer actions brought under Code of Civil Procedure Sections 1159 through 1179a.**

**(6) Except for self-represented litigants, all parties are required to electronically file all documents, subsequent to the filing of the Complaint, in all felony, misdemeanor, and infraction Criminal actions, except for Traffic Court cases.**

(B-D unchanged)

(Adopted, effective January 1, 2020) *(Amended, effective July 1, 2020)*.

#### Rule 2.1.8 Documents That Cannot Be Electronically Filed

As an exception to Rule 2.1.5 and Rule 2.1.7, certain documents cannot be electronically filed (or lodged) with the Court, and must be filed by conventional means, i.e., paper documents. At present, documents that cannot be electronically filed (or lodged) and must be submitted in paper form, include the following:

(A-C unchanged)

**(d) ~~In Misdemeanor and Felony Criminal actions: Bench warrants;~~ *In Criminal actions: Complaint, and all documents filed before the Complaint;***

(e) (Unchanged)

A list of such documents is regularly updated on the Court's website, as the Court continues to expand its electronic filing capabilities.

(Adopted, effective January 1, 2020) *(Amended, effective July 1, 2020)*.

**Proposal Number 03 2020 – July**

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| <b>Title</b>                                                                                | <b>Rule 2.12 Court Reporter Availability in Civil Actions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Summary</b>                                                                              | Adds Unlawful Detainer pretrial conferences as a calendar where a court reporter will not normally be available.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Discussion</b>                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Proposed Changes</b><br><br>(insert text of new rule or changes here with track changes) | <p>(a) Unavailable. The services of official court reporters are not normally available during regular court hours for the following civil departments and calendars: Case Management Conferences (other than Complex Civil Litigation), <b><i>Unlawful Detainer pretrial conferences</i></b>, Small Claims actions, Small Claims appeals, Small Claims night court, and Lanterman-Petris-Short Act pretrial conservatorship proceedings.</p> <p>(b) Available. The services of official court reporters are normally available during regular court hours for all other civil departments and calendars, not identified in subsection (a).</p> <p>(Adopted, effective January 1, 2020) (<i>Amended, effective July 1, 2020</i>).</p> |

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| <b>Title</b>                                                                                | <b>Rule 9.11 Brief Preliminary Evaluation of the Mental Competency of a Criminal Defendant</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Summary</b>                                                                              | <p>Give greater specificity as to the purpose, scope and contents of brief preliminary examination reports in criminal cases.</p> <p>Changes the words “mental competency” to the more appropriate term “adjudicative competency”.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Discussion</b>                                                                           | <p>The brief preliminary examination procedure is to be used <i>prior</i> to the declaration of a doubt about a defendant’s mental competence by the judge and the accompanying suspension of criminal proceedings, under circumstances where it appears to the judge that there may be reason to doubt the defendant’s competence to stand trial but the defense attorney does not share that doubt, or where the defense attorney indicates his or her doubt that is not shared by the judge without additional information. It is a declaration of doubt by the court that initiates "mental competency proceedings" pursuant to Penal Code Section 1368 <i>et seq.</i>, cf. Rule 4.130(b)(1).</p> <p>The purpose of the amendment is to make revisions based upon suggestions and requests of the panel doctors who conduct the evaluations. Doctors have indicated that the existing rule lacks sufficient specific guidance to evaluators.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Proposed Changes</b><br><br>(insert text of new rule or changes here with track changes) | <p>Rule 9.11 <u>Brief Preliminary Evaluation of <i>Adjudicative</i> the Mental Competency of a Criminal Defendant</u></p> <p><del>———— (a) ——— <u>Brief Preliminary Evaluation Reports.</u> A brief preliminary evaluation of the mental competency of a criminal defendant may be conducted by a forensic evaluator. The evaluation shall be memorialized in a written report, which shall be submitted to the court in which the defendant’s competency case is pending. The report shall specify the defendant’s name, the date of the evaluation, and the case number or numbers. The report shall also specify the reasons for the forensic evaluator’s opinion as to the defendant’s competence, including observed symptoms, and the defendant’s ability or inability to understand the nature of the criminal proceedings or assist counsel in the conduct of a defense in a rational manner as a result of a mental disorder. If the forensic evaluator opines that the defendant is not competent to stand trial, the report shall address the issues regarding antipsychotic medication as specified in Penal Code section 1369(a). The report shall be signed by the forensic evaluator.</del></p> <p style="text-align: center;"><i>(a) <u>Definition.</u> A brief preliminary evaluation of adjudicative competence shall be conducted by a qualified mental health expert, and is designed to assist the Court in the earliest determination of whether a criminal defendant is clearly competent or clearly not competent to stand trial and assist counsel.</i></p> <p style="text-align: center;"><i>(b) <u>Preliminary Opinions by Evaluator.</u> A brief preliminary evaluation shall address the following questions:</i></p> |



***(1) Is the defendant clearly able to understand the nature of the criminal proceedings in a rational manner or is the defendant clearly unable to understand the nature of the criminal proceedings as a result of a mental disorder?***

***(2) Is the defendant clearly able to assist counsel in the conduct of a defense in a rational manner or is the defendant clearly unable to assist counsel in the conduct of a defense as a result of a mental disorder?***

***(c) Written Reports. A qualified mental health expert's report of a brief preliminary evaluation shall be in writing and shall include the following and is due in court within a reasonable time from the date of the order (subject to the appointing judge's discretion in consultation with the appointed expert):***

***(1) Defendant's name, case number(s), date of evaluation and report, length of current incarceration at the time of interview, methods of evaluation, evaluator's signature.***

***(2) The evaluator's opinions with respect to (b)(1)&(2) and the reasons for the opinions.***

***(3) The defendant's observed symptoms, behaviors and functioning relevant to the opinions.***

***(d) Application. This local rule is intended to comply with Rule 4.130(a)(3) of the California Rules of Court, so that Brief Preliminary Evaluation Reports prepared in accordance with this rule need not comply with Rule 4.130(d)(2).***

***(Adopted, effective January 1, 2019) (Amended, effective July 1, 2020).***